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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,026	02/15/2001	Yoshihide Iteya	57139-5045	3020

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EXAMINER

SMITH, JULIE KNECHT

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 09/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/785,026

Applicant(s)

ITEYA, YOSHIHIDE

Examiner

Julie K Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-6, 13-17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Abe (6,073,730). Regarding claims 1, 3-6, 13-17 and 19, Abe discloses a bicycle control device for holding a computer switch having an operation control device, the device comprising a shift control device integrated with a brake control device (see fig. 3), a casing (5) encompassing the brake/shift control device wherein the casing defines a recess therein, wherein the recess has a shape conforming to the outer periphery of the operation control button (20). Abe further discloses a cable mounting recess (84) therein in communication with the switch mounting recess, wherein the cable mounting recess extends from the switch mounting recess in the direction of the cycle computer, and wherein a portion of the connecting cable (10) is mounted in the cable mounting recess.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-11 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe as applied to claims 1-6, 13-17 and 19 above, and further in view of Seimitsu (JP 20026893).

Regarding claim 7, Abe discloses a bicycle control device, as claimed, but does not disclose the control switch being attached in the switch mounting recess by an adhesive.

However, Seimitsu teaches using an adhesive to attach a portable clock to a fixed base.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the control switch to the mounting recess using an adhesive so as to provide a secure connection between the switch and recess. Moreover, using an adhesive to attach one member to another is old and well known in the art and would have been obvious to one of ordinary skill in the art at the time the invention was made.

Regarding claim 8, Abe discloses a switch mounting recess defining a hole (23) therein, the control switch (20) having an attachment arm (31) wherein the attachment arm is press-fitted into the hole of the switch mounting recess.

Regarding claim 9, Abe discloses an elastic outer cover (35,36) surrounding the control switch (33,34) wherein the elastic cover is press-fitted into the recess.

Regarding claims 10-11, Abe discloses a retention ring (38) fastened to the casing and configured to restrict the movement of the control switch.

Regarding claim 27, Abe discloses an elastic outer cover (35,36) in frictional contact with and surrounded by a recess wall (38).

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5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abe as applied to claims 1-6, 13-17 and 19 above, and further in view of Hill et al. (5,745,438). Abe discloses a bicycle control device but does not disclose a threadingly engaged retention ring. However, Hill et al. teaches a threaded retention ring used to secure a member (17) within a recess (32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the ring of Hill et al. in the apparatus of Abe so as to provide a secure method of retaining the control switch within the recess that could withstand the rough conditions a bicycle might be exposed to.

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abe in view of Iteya (6,331,089). Regarding claim 18, Abe discloses a handlebar assembly comprising a handlebar (13) having an end, a hand grip (17), a control device (see fig. 3) attached to the handlebar proximal the hand grip such that the rider's hand can reach the control device while remaining on the hand grip, the control device defining a switch mounting recess (23), and a control device (20) mounted in the recess. Abe does not disclose a cycle computer assembly, as claimed. However, Iteya discloses a cycle computer attached to a handlebar, separate from a control device with a connecting cable (22a,b) electrically connecting a control switch to the cycle computer (see fig. 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a cycle computer attached to a handle bar connected by a cable to a separate control switch so as to allow the computer screen to be visible to the rider while

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keeping the controls close to the hand grip so that the rider does not have to move his hand to reach the controls.

7. Claims 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe in view of Seimitsu and Hill et al. Although Abe is silent concerning the particular method set forth in claims 20-26, the manufacture of the apparatus, as set forth in the reference combination above, would inherently lead to the method steps recited in claims 20-26. Defining the product in terms of a process by which it is made is nothing more than a permissible technique that Applicant may use to define the invention since no structural difference is required.

### ***Response to Arguments***

8. Some further comments regarding Applicant's remarks are deemed appropriate.

Regarding claims 1, 3-6, 13-17 and 19, the claims, as amended, recites wherein the recess has a shape which conforms to the outer periphery of the operation control button. The Applicant states that the recess disclosed by Abe does not conform to the shape of the operation control button, however, as seen in fig. 3, the recess is shaped to receive the control button (20).

Regarding claim 8, Applicant states that there is no hole defined within the recess, however, Fig. 3 shows a recess (not numbered), within the casing (5), defining a hole (23) therein.

Regarding claim 9, Applicant states that the elastic cover (35,36) does not surround the control switch, however, the buttons (33,34) are part of the control switch and are partially covered by elastic outer cover, as claimed.

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Regarding claims 10-11, Applicant states that the retention ring (37) cited by Examiner in the First Office Action is for sealing purposes, not retention purposes. However, the cover (38) comprises a ring disposed on its inner surface that is used to restrict the movement of the control switch.

Regarding claims 17 and 19, Applicant states that there is no cable mounting recess defined in the casing of the control device. However, once the control switch is assembled, the cover (38) becomes part of the casing and the cable mounting recess (84) is defined on the edge of the cover (38). Abe further discloses part of the cable being mounted in the cable mounting recess.

Applicant's remarks have been accorded due consideration, however, they are not deemed persuasive.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Smith whose telephone number is 703-305-3948. The examiner can normally be reached on Monday-Friday, 8-5:30, (Every other Friday off).

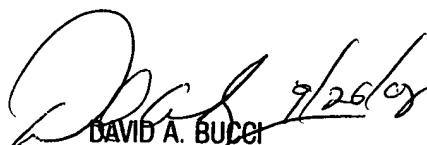
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703-308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

JKS

jks

September 26, 2002

  
DAVID A. BUCCI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600